PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants:	Akihiro YOSHITANI, *et al.*
Serial No.:	10/016,682
Filed:	31 October 2001
Title:	IMAGE PROCESSING APPARATUS AND METHOD
Group Art Unit:	2625
Examiner:	P. Huntsinger
Attorney Docket No.:	CANO:039
Confirmation No.:	2566

VIA EFS-WEB
20 AUGUST 2008

COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

APPEAL BRIEF

Sir:

Further to the filing of the Notice of Appeal on 20 June 2008, appellants timely appeal claims 1-3, 5, 6, 15, and 16, as finally rejected in the Final rejection dated 20 March 2008.

The fee for the Appeal Brief is addressed in the EFS-WEB generated fee transmittal. The Commissioner is authorized to charge any additional fees required to maintain pendency of this application or credit any overpayment to Deposit Account No. 18-2056.

Real Party in Interest - Rule 41.37(c)(1)(i)

The real party in interest is CANON KABUSHIKI KAISHA of Japan. See Reel/Frame 012704/0674.

Related Appeals and Interferences - Rule 41.37(c)(1)(ii)

No pending appeal, interference, or judicial proceeding that may be related to, directly affect or be directly affected by or have bearing on the Board's decision in this appeal is believed to exist. Appellants will identify any such appeal, interference, or judicial proceeding if it exists.

Status of Claims - Rule 41.37(c)(1)(iii)

Claims 1-3, 5, 6, 15, and 16 remain pending in this application.

Claims 1-3, 6, 15, and 16 stand finally rejected under 35 U.S.C. § 103(a) as unpatentable over Misawa (USP 6,771,382) in view of Kim (USP 6,268,937).

Claim 5 stands finally rejected § 103(a) as unpatentable over Misawa in view of Kim and Morigami (USP 6,057,934).

No claim has been allowed.

Status of Amendments - Rule 41.37(c)(1)(iv)

No claim was amended after the Final rejection.

Appellants thus appeal claims 1-3, 5, 6, 15, and 16, as finally rejected.

A copy of the claims involved in this appeal is appended hereto.

Summary of Claimed Subject Matter - Rule 41.37(c)(1)(v)

This application contains 7 claims, including 3 independent claims, namely claims 1, 15, and 16, directed respectively to image processing apparatus, method, and computer program embodied in a computer-readable medium. Only independent claims 1, 15, and 16 are addressed here.

Independent claim 1 calls for an image processing apparatus (101, 102) having an inputter (102) arranged to input image data representing an image. See Figs. 1, 2A, 2B, & 9; page 13, lines 1-4, page 14, lines 16-19, & page 28, lines 8-15. The image processing apparatus includes a processor (241) arranged to process the input image data so that the image represented by the image data has a predetermined image size by adding white data (i.e., white pixels) to the input image data. See page 26, the first full paragraph, page 31, lines 13-22, page 32, lines 17-22, page 35, lines 20-24, page 36, lines 4-8, & the paragraph spanning pages 48-49.

The image processing apparatus includes a first producer (S410-S423) arranged to produce data for a fax transmission based on the input image data. See Figs. 4A & 4B; page 30, line 1 - page 33, line 8. The image processing apparatus includes a second producer (S430-S446) arranged to produce data for an email transmission based on the input image data. See Figs. 5; page 33, line 9 - page 37, line 23. The image processing apparatus further includes a controller (201) arranged to control the first and second producers. See page 14, lines 1-7. In other words, the controller (201) carries out the algorithms expressed in Figs. 4A and 4B in conjunction with the processor (241). See page 55, lines 14-19.

The image processing apparatus includes a selector (213, S401) arranged to select a fax or email transmission based on a user instruction. See Figs. 2B & 4A; page 22, lines 5-8, page 29, lines 22-26, & page 38, line 14 - page 39, line 7.

When a fax transmission is selected, the first producer (S410-S423) produces the data for the fax transmission after the processor (241) adds the white data (S414, S420) to the input image data to alter the size of the image represented by the input image data to the predetermined image size (e.g., A4, B4), if the image represented by the input image data is smaller than the predetermined image size. See page 26, the first full paragraph, page 31, lines 13-22, page 32, lines 17-22, page 36, lines 4-8, the paragraph spanning pages 48-49, & page 53, lines 18-25.

On the other hand, when an email transmission is selected, the second producer (S430-S446) produces the data for the email transmission without adding the white data to the input image data, even if the image represented by the input image data is smaller than the predetermined image size. See page 35, lines 15-19, page 48, lines 12-21, & page 54, the first full paragraph.

As independent claims 15 and 16 parallel claim 1, the above summary also applies to claims 15 and 16. See also page 62, lines 6-12.

Grounds of Rejection to be Reviewed on Appeal - Rule 41.37(c)(1)(vi)

Whether Misawa and Kim would have taught independent claims 1, 15, and 16 within the meaning of § 103.

Appellants' Arguments - Rule 41.37(c)(1)(vii)

§ 103 REJECTION OF CLAIMS 1, 15, AND 16: (1) THE COMBINATION AS URGED BY THE EXAMINER WOULD NOT HAVE BEEN TENABLE BECAUSE APPLYING KIM'S TEACHINGS AS URGED BY THE EXAMINER WOULD DESTROY MISAWA'S INVENTION; AND (2) EVEN IF THE COMBINATION WERE DEEMED PROPER FOR ARGUMENT'S SAKE, THE COMBINATION AT BEST

WOULD MERELY HAVE SUGGESTED ADDING WHITE DATA (PIXELS) BEFORE SELECTING THE TRANSMISSION TYPE ACCORDING TO MISAWA'S DISCLOSURE

Each of independent claims 1, 15, and 16 calls for a feature of adding white data (pixels) to the input image data so that the image represented by the image data has a predetermined image size when a fax transmission is selected. Specifically, when a fax transmission is selected, the data to be transmitted is produced after the white data is added to the image data, to alter the size of the image represented by the input image data to the predetermined image size if the image represented by the input image data is smaller than the predetermined image size. That is, the alteration takes place after the transmission type selection has been made. On the other hand, when an email transmission is selected, the data to be transmitted is sent without adding the white data to the input image data regardless of the image size. With the claimed arrangement, it is possible to transmit image data in a proper size when the fax transmission is selected, while preventing unnecessary white data from being added when the email transmission is selected. Accordingly, in an image processing apparatus that can perform both the fax and email transmissions, it is possible to transmit the image data in a proper size regardless of the transmission selection.

Misawa discloses a communication apparatus having both the fax transmission unit 14 and the email transmission unit 17. Its CPU 11 compares the size of image data to be transmitted with a previously set reference value. When the image data size exceeds the reference value, the image data is transmitted via the fax transmission unit, while when the image data size does not exceed the reference value, the image data is transmitted via the email transmission unit 15. See column 5, lines 16-26, the paragraph spanning columns 5-6, and column 6, lines 13-29. Misawa discloses automatically selecting either the fax transmission unit or the email transmission unit exclusively based on the image data size. Misawa, however, does not disclose or teach altering the image data size based on the type of transmission selected, in particular producing the data to be transmitted after the white data is added to the image data to alter the data to be transmitted when a fax transmission is selected.

The examiner thus relied upon Kim for the proposition that adding white data to an image to bring the document to fit a standard or non-standard paper size for a fax transmission would have been obvious, relying on the passage set forth in Kim's column 5, lines 31-37.

In maintaining the rejection, the examiner asserts that an ordinary artisan would have known that white pixels are simply not needed when transmitting data via email. See the 20 March 2008 Final rejection at pages 2-3. In this respect, the examiner asserts that Kim's

teaching of adding white pixels to image data applies only to a fax transmission. In other words, the examiner contents that altering the size of the image representing the image data after selecting the fax transmission is independent of the selecting procedure.

Appellants disagree with the examiner's assessment because altering the image size after automatically selecting the transmission type completely defeats Misawa's teaching of automatically selecting the transmission method based on the image size. Appellants submit that Kim would not have led one of ordinary skill in the art to alter the image size after selecting the transmission type as Misawa explicitly teaches selecting the transmission type exclusively based on the image data size.

Indeed, as an analogy, appellants submit that the examiner's argument is akin to selecting a fax transmission if the image is in monochrome and selecting an email transmission if the image is in color, and after selecting the fax transmission for a monochrome image, converting the monochrome image to a color image, and then faxing the color image. This is essentially the gist of the examiner's contention. Appellants submit that the modification urged by the examiner would simply destroy the operating principle of Misawa as the teaching of transmitting an image based on the size would be defeated, regardless of whether the done independently after the selection has been made. Accordingly, appellants submit the combination as urged by the examiner simply would not have been tenable.

Even if the combination were deemed proper for argument's sake, to maintain Misawa's operating principle, since Kim merely discloses sensing the paper size of the documents to be transmitted and automatically selecting the paper size, appellants submit that Kim's teaching of adding white data would have to be applied to all images before selecting the transmission type according to Misawa's teachings. As the pending claims call for altering the size after the transmission type is selected, appellants submit that the combination still would not have taught the claimed invention.

Conclusion

Appellants submit that claims 1-3, 5, 6, 15, and 16 patentably distinguish over the applied references for the foregoing reasons, and thus urge the Board to reverse the rejection of these claims.

Respectfully submitted,

ROSSI, KIMMS & McDOWELL LLP

20 AUGUST 2008
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CLAIMS ON APPEAL (CLAIM APPENDIX) - Rule 41.37(c)(1)(viii)

1. An image processing apparatus comprising:

an inputter arranged to input image data representing an image;

a processor arranged to process the image data input by said inputter in a manner such that the image represented by the image data has a predetermined image size by adding white data to the image data input by said inputter;

a first producer arranged to produce data for transmission by facsimile based on the image data input by said inputter;

a second producer arranged to produce data for transmission by electronic mail based on the image data input by said inputter;

a selector arranged to select a facsimile transmission or an electronic mail transmission based on an instruction by a user; and

a controller arranged to control said first and second producers in a manner such that when the data for transmission by facsimile is produced by said first producer in accordance with a selection of the facsimile transmission by said selector, the data for transmission by facsimile is produced after said processor adds the white data to the image data input by said inputter to alter the size of the image represented by the input image data to the predetermined image size for transmission by facsimile if the image represented by the input image data is smaller than the predetermined image size, and when the data for transmission by electronic mail is produced by said second producer in accordance with a selection of the electronic mail transmission by said selector, the data for transmission by electronic mail is produced without said processor adding the white data to the image data input by said inputter to alter the size of the image represented by the input image data to the predetermined image size, even if the image represented by the input image data is smaller than the predetermined image size.

2. An image processing apparatus according to claim 1, wherein said inputter inputs the image data from a reader which reads the image and generates the image data based on the image.

3. An image processing apparatus according to claim 1, wherein said inputter inputs the image data from a detachable memory.

5. An image processing apparatus claim 1, wherein said controller controls said first producer and said second producer such that said first producer and said second producer use different γ values in producing the data.

6. An image processing apparatus according to claim 1, wherein said controller restricts operations of said first and second producers according to a predetermined condition.

15. An image processing method comprising:

an inputting step of inputting image data representing an image;

a processing step of processing the image data input in said inputting step in a manner such that the image represented by the image data has a predetermined image size by adding white data to the image data input in said inputting step;

a first producing step of producing data for transmission by facsimile based on the image data input in said inputting step;

a second producing step of producing data for transmission by electronic mail based on the image data input in said inputting step;

a selecting step of selecting a facsimile transmission or an electronic mail transmission based on an instruction by a user; and

a controlling step of controlling said first and second producing steps in a manner such that when the data for transmission by facsimile is produced in said first producing step in accordance with a selection of the facsimile transmission in said selecting step, the data for transmission by facsimile is produced after the white data is added to, in the processing step, to the image data input in said inputting step to alter the size of the image represented by the input image data to the predetermined image size for transmission by facsimile if the image represented by the input image data is smaller than the predetermined image size, and when the data for transmission by electronic mail is produced in said second producing step in accordance with a selection of the electronic mail transmission in said selecting step, the data for transmission by electronic mail is produced without adding, in said processing step, the white data to the image data input in said inputting step to alter the size of the image represented by the input image data to the predetermined size, even if the image represented by the input image data is smaller than the predetermined image size.

16. A computer-readable storage medium storing a computer readable program, the program comprising:

an inputting module for inputting image data representing an image;

a processing module for processing the image data input by said inputting module in a manner such that the image represented by the image data has a predetermined image size by adding white data to the image data input by said inputting module;

a first producing module for producing data for transmission by facsimile based on the image data input by said inputting module;

a second producing module for producing data for transmission by electronic mail based on the image data input by said inputting module;

a selecting module for selecting a facsimile transmission or an electronic mail transmission based on an instruction by a user; and

a controlling module for controlling said first and second producing modules in a manner such that when the data for transmission by facsimile is produced by said first producing module in accordance with a selection of the facsimile transmission by selecting module, the data for transmission by facsimile is produced after said processing module adds the white data to the image data input by said inputting module to alter the size of the image represented by the input image data to the predetermined image size for transmission by facsimile if the image represented by the input image data is smaller than the predetermined image size, and when the data for transmission by electronic mail is produced by said second producing module in accordance with a selection of the electronic mail transmission by said selecting module, the data for transmission by electronic mail is produced without said processing module adding the white data to the image data input by said inputting module to alter the size of the image represented by the input image data to the predetermined size, even if the image represented by the input image data is smaller than the predetermined image size.

EVIDENCE APPENDIX - Rule 41.37(c)(1)ix)

None.

RELATED PROCEEDINGS APPENDIX - Rule 41.37(c)(1)(x)

None.